

1 KEKER & VAN NEST LLP  
2 ROBERT A. VAN NEST - # 84065  
3 rvannest@kvn.com  
4 CHRISTA M. ANDERSON - # 184325  
5 canderson@kvn.com  
6 DANIEL PURCELL - # 191424  
7 dpurcell@kvn.com  
8 633 Battery Street  
9 San Francisco, CA 94111-1809  
10 Telephone: (415) 391-5400  
11 Facsimile: (415) 397-7188

12 KING & SPALDING LLP  
13 BRUCE W. BABER (pro hac vice)  
14 bbaber@kslaw.com  
15 1185 Avenue of the Americas  
16 New York, NY 10036  
17 Tel: (212) 556-2100  
18 Fax: (212) 556-2222

19 Attorneys for Defendant  
20 GOOGLE INC.

21 UNITED STATES DISTRICT COURT  
22 NORTHERN DISTRICT OF CALIFORNIA  
23 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.,

25 Case No. 3:10-cv-03561 WHA

26 Plaintiffs,

27 **DECLARATION OF MAYA KARWANDE  
28 IN SUPPORT OF GOOGLE'S MOTION  
TO REMOVE FROM DOCKET  
INCORRECTLY FILED ATTACHMENT 7  
TO ECF 1571**

v.

29 GOOGLE, INC.,

30 Defendant.  
31  
32 Dept. Courtroom 8, 19<sup>th</sup> Fl.  
33 Judge: Hon. William Alsup

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43 DECLARATION OF MAYA KARWANDE IN SUPPORT OF GOOGLE'S MOTION TO REMOVE  
44 FROM DOCKET INCORRECTLY FILED ATTACHMENT 7 TO ECF 1571  
45 CASE NO. 3:10-CV-03561 WHA

1 I, MAYA KARWANDE, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am an  
 3 associate at the law firm of Keker & Van Nest LLP, counsel to Google Inc. (“Google”) in the  
 4 above-captioned action. I submit this declaration in support of Google’s Motion to Remove from  
 5 Docket Incorrectly Filed Attachment 7 to Docket Number 1571. I have knowledge of the facts  
 6 set forth herein, and if called upon as a witness, I could testify to them competently under oath.

7 2. On January 14, 2016, counsel for Google received an email from Jose Valdes, a  
 8 paralegal for Counsel for Oracle, stating that pursuant to Oracle’s counsel’s instructions, he was  
 9 sending for download copies of “Oracle’s expert reports with Oracle Highly Confidential-AEO  
 10 material redacted.” This email did not designate the remaining portions of Oracle’s expert reports  
 11 confidential. Attached hereto as **Exhibit A** is a true and correct copy of this email.

12 3. Pursuant to the Stipulated Protective Order in this case [ECF No. 66], Google has  
 13 maintained the confidentiality of the portions of the Oracle’s expert reports that were designated  
 14 “Oracle Highly Confidential-AEO” in Mr. Valdes’s January 14, 2016 email. Google used  
 15 Oracle’s January 14, 2016 designations to prepare redacted versions of the Oracle’s expert  
 16 reports, including Exhibit F, to file along with Google’s motions *in limine*. *See* ECF No. 1488.

17 4. On March 23, 2016, in anticipation of the public filing of redacted versions of  
 18 Oracle’s expert reports, including Exhibit F to the Bayley Declaration, counsel for Google sent an  
 19 email to counsel for Oracle to confirm Google’s understanding of Oracle’s confidentiality  
 20 designations. Attached hereto as **Exhibit B** is a true and correct copy this email.

21 5. On March 24, 2016, Google filed a corrected version of the Bayley declaration  
 22 with Exhibit F attached. *See* ECF No. 1571. Due to a filing error, on March 23, 2016 Google had  
 23 filed slip sheets instead of the redacted versions of Exhibits A-G. *See* ECF No. 1564.

24 6. On March 26, 2016, at 4:57 p.m. counsel for Google received an email from Rob  
 25 Uriate, notifying Google that Oracle believed Exhibit F to the Bayley Declaration [ECF No.  
 26 1571-7] contained passages with confidential Oracle financial information. On March 26, 2016 at  
 27 8:18 p.m., I responded to Mr. Uriate and explained Google’s understanding of Oracle’s  
 28 confidentiality designations. I offered, as a courtesy, to take steps to assist Oracle in resolving

1 this issue. Attached hereto as **Exhibit C** is a true and correct copy this correspondence.

2 7. On March 28, 2016, Mr. Uriate informed me by phone that Oracle requested that  
3 Google also file a motion to remove Exhibit F to the Bayley Declaration [ECF No. 1571-7] from  
4 the public docket. As a courtesy, Google again agreed to take this step to afford Oracle an  
5 opportunity to seek to seal this material.

6 8. On March 28, 2016, I called the ECF Help Desk and requested that a lock be  
7 placed on Exhibit F to the Bayley Declaration [ECF No. 1571-7]. As a result, this document is  
8 currently locked and not accessible by the public.

9 9. Also on March 28, 2016, I sent an email to Judge Alsup's docket clerk requesting  
10 immediately remove ECF No. 1571, Attachment 7 (Exhibit F to the Bayley Declaration).  
11 Attached hereto as Exhibit D is a true and correct copy of this correspondence.

12 10. Finally, on March 28, 2016, Google filed a corrected version of Exhibit F to the  
13 Bayley Declaration which redacts all information Oracle asserted was confidential on March 26,  
14 2016. *See* ECF No. 1578.

15  
16 I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct to the best of my knowledge.

18  
19 Executed on this 28th day of March, 2016 at San Francisco, California.

20  
21  
22 By: \_\_\_\_\_  
23 Maya Karwande  
24  
25  
26  
27  
28

## **EXHIBIT A**

**From:** [jvaldes@orrick.com](mailto:jvaldes@orrick.com)  
**To:** [DALVIK-KVN](mailto:DALVIK-KVN); [Raina M. Abaya](mailto:Raina M. Abaya); [Maya Karwande](mailto:Maya Karwande)  
**Cc:** [jvaldes@orrick.com](mailto:jvaldes@orrick.com); [acaridis@orrick.com](mailto:acaridis@orrick.com); [ahurst@orrick.com](mailto:ahurst@orrick.com); [gmoss@orrick.com](mailto:gmoss@orrick.com)  
**Subject:** Oracle America, Inc. v. Google Inc. - Oracle's Expert Reports (Redacted)  
**Date:** Thursday, January 14, 2016 9:55:20 PM

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You have received 1 file from [jvaldes@orrick.com](mailto:jvaldes@orrick.com).

Dear Counsel,

Pursuant to Ms. Caridis instructions, attached for download please find copies of Oracle's expert reports with Oracle Highly Confidential - AEO material redacted.

Respectfully,  
José E. Valdés

[Oracle 01-08-16 Expert Reports -- ORACLE AEO REDACTED.zip](#)

4.83 MB

File links expire: Jan 26, 2016

[DOWNLOAD](#)



<http://www.accellion.com/kiteworks>

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## **EXHIBIT B**

**From:** [Edward A. Bayley](#)  
**To:** [Oracle/Google-OHS Only \(Oracle/Google@orrick.com\)](#) ([Oracle/Google@orrick.com](#))  
**Cc:** [DALVIK-KVN](#)  
**Subject:** Motions in Limine and Motions to Seal  
**Date:** Wednesday, March 23, 2016 10:49:05 PM  
**Attachments:** [image003.png](#)

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Counsel,

We are preparing to file our motions in limine and administrative motions to seal. In an abundance of caution, we are writing to confirm that it is our understanding that Oracle withdrew its claim of confidentiality over the Malackowski, Jaffe, and Kemerer reports, except for those specific portions which Oracle redacted as AEO as identified in previous emails to us. Please let us know immediately if that understanding is incorrect.

Thanks,

-Ed

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**Edward A. Bayley**

Attorney at Law

**KEKER & VAN NEST, LLP**

415 773 6672 direct | [vCard](#) | [ebayley@kvn.com](mailto:ebayley@kvn.com)  
633 Battery Street, San Francisco, CA 94111-1809 | 415 391 5400 main | [kvn.com](#)

## **EXHIBIT C**

**From:** Uriarte, Robert L.  
**To:** Maya Karwande; DALVIK-KVN  
**Cc:** Oracle/Google-OHS Only  
**Subject:** Re: Oracle v Google--3/24/2016 Ed Bayley Declaration and Unredacted AEO Materials  
**Date:** Saturday, March 26, 2016 8:54:58 PM  
**Attachments:** [image006.png](#)  
[image003.png](#)

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Thank you for your prompt response. Please do email the docket clerk and cc me.

The protective order is clear on this. Oracle never authorized public filing of 2014 and 2015 financial information. Google was obviously aware that such information remained designated confidential as Google properly redacted other expert reports attached to Mr. Bayley's various declarations.

Thanks

Rob

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**From:** Maya Karwande [mailto:[MKarwande@kvn.com](mailto:MKarwande@kvn.com)]  
**Sent:** Saturday, March 26, 2016 08:18 PM  
**To:** Uriarte, Robert L.; DALVIK-KVN <[DALVIK-KVN@kvn.com](mailto:DALVIK-KVN@kvn.com)>  
**Cc:** Oracle/Google-OHS Only  
**Subject:** RE: Oracle v Google--3/24/2016 Ed Bayley Declaration and Unredacted AEO Materials

Rob,

We redacted Oracle AEO material from Exhibits A-G of the Bayley Declaration, including Exhibit F, in accordance with the Oracle AEO redacted versions of the Oracle expert reports that Orrick sent to us for the purposes of sharing with Google. See January 14, 2016 email from Jose Valdes re Oracle America, Inc. v. Google Inc. -Oracle's Expert Reports (Redacted) ("Attached for download please find copies of Oracle's expert reports with Oracle Highly Confidential-AEO material redacted"). I've attached the version of Mr. Malackowski's 1/8/16 Report and Exhibits we received from Mr. Valdes for your reference. On March 23, Ed Bayley sent an email to Orrick asking for confirmation that "Oracle withdrew its claim of confidentiality over the Malackowski, Jaffe, and Kemerer reports, except for those specific portions which Oracle redacted as AEO as identified in previous emails to us." March 23, 2016 Bayley Email to [Oracle/Google@orrick.com](mailto:Oracle/Google@orrick.com). We asked Orrick to respond immediately if our understanding was incorrect. We received no response.

As a courtesy, we are willing to jointly take the steps to remove Exhibit F from the docket immediately. I can email the Docket Correction clerk immediately and copy you, and Google is willing to join in a "Motion to Remove Incorrectly Filed Document" drafted by Oracle. But, we have not violated the protective order by relying on Oracle's own AEO designations.

Thanks,

Maya

Maya Karwande  
Attorney at Law

**KEKER & VAN NEST LLP**

415 676 2287 direct | [vCard](#) | [mkarwande@kvn.com](mailto:mkarwande@kvn.com)  
633 Battery Street, San Francisco, CA 94111-1809 | 415 391 5400 main | [kvn.com](#)

**From:** Uriarte, Robert L. [mailto:[ruriarte@orrick.com](mailto:ruriarte@orrick.com)]  
**Sent:** Saturday, March 26, 2016 4:57 PM  
**To:** DALVIK-KVN  
**Cc:** Oracle/Google-OHS Only  
**Subject:** Oracle v Google--3/24/2016 Ed Bayley Declaration and Unredacted AEO Materials

Counsel:

On March 24, 2016 you publicly filed Oracle AEO-designated materials in connection with the Declaration of Edward A. Bayley, Dkt. 1571. Exhibit F to the Declaration (Dkt. 1571-7) contains several unredacted passages reflecting confidential Oracle financial information from 2014 and 2015: figure 24, figure 25, figure 27, figure 28, Exhibit 12, Exhibit 12.1, and Exhibit 12.2. Data for 2014 and 2015 should be redacted.

Please immediately take all steps necessary to remedy this violation of the Protective Order and please keep us apprised of your efforts.

Thank you



ROBERT L. URIARTE  
*Managing Associate*

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ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 Marsh Road  
Menlo Park, CA 94025-1015

tel +1-650-289-7105  
fax +1-650-614-7401  
[ruriarte@orrick.com](mailto:ruriarte@orrick.com)  
[bio](#) . [vcard](#)  
[www.orrick.com](http://www.orrick.com)

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## **EXHIBIT D**

**From:** Maya Karwande  
**To:** "WHApdf@cand.uscourts.gov"  
**Cc:** Uriarte, Robert L. (uriarte@orrick.com); Edward A. Bayley  
**Subject:** URGENT CORRECTION- 10-03561 Dkt No. 1571  
**Date:** Monday, March 28, 2016 9:59:39 AM  
**Attachments:** image002.png  
**Importance:** High

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Oracle America, Inc. v. Google Inc., 3:10-cv-03561 WHA

Dear Docket Clerk for Judge Alsup: Plaintiff Oracle America has informed Defendant Google Inc. of its position that Docket Number **1571, Attachment 7** contains unredacted information Oracle contends is confidential and should have been filed under seal. Please remove **1571, Attachment 7** from the publicly accessible docket as soon as possible. Google will follow up by phone and file a corrected version of Docket Number 1571 and a Motion to Remove Incorrectly Filed Document today.

---

**Maya Karwande**  
Attorney at Law

**KEKER & VAN NEST LLP**

415 676 2287 direct | [vCard](#) | [mkarwande@kvn.com](mailto:mkarwande@kvn.com)  
633 Battery Street, San Francisco, CA 94111-1809 | 415 391 5400 main | [kvn.com](http://kvn.com)